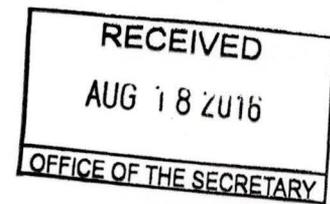


HARD COPY



SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

In the Matter of the Application of:

BERNARD G. MCGEE

NOTICE OF APPEAL

For Review of Action Taken by:

**Disciplinary Proceeding
No.: 2012034389202**

NATIONAL ADJUDICATORY COUNCIL

and

FINANCIAL INDUSTRY REGULATORY AUTHORITY

SIRS:

PLEASE TAKE NOTICE that the Applicant, Bernard G. McGee, herein appeals to the Securities and Exchange Commission from a Decision of the National Adjudicatory Council dated July 18, 2016, pursuant to Section 19(d)(2) of the Exchange Act and Rule 420 of the Rules of Practice of the U.S. Securities and Exchange Commission, and sets forth the following:

- (1) The name of the disciplinary proceeding: Department of Enforcement v. Bernard G. McGee (CRD # 1203327).
- (2) The FINRA disciplinary proceeding docket number: No.: 2012034389202.
- (3) The name of the party on whose behalf the appeal is made: Bernard G. McGee.
- (4) Address where Mr. McGee may be served: [REDACTED], Cazenovia, New York [REDACTED]
- (5) Phone number where Mr. McGee may be reached during business hours: Office: [REDACTED]
[REDACTED] [REDACTED]

(6) A statement of whether oral argument before the SEC is requested: A request for oral argument will be made pursuant to Rule 451.

(7) A statement of whether a stay of the NAC bar is requested: A stay of the bar will be requested pursuant to Rule 401.

(8) Brief statement of the findings, conclusions, or sanctions to which exceptions are taken:

Mr. McGee respectfully takes exception to, and appeals from, so much of the Decision of the NAC and Hearing Panel which found that he is barred in all capacities from associating with any FINRA member for: (1) willfully violating Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5, and violating FINRA Rules 2020 and 2010, by failing to disclose material information to a customer; and (2) violating NASD Rule 2310, IM-2310-2, and FINRA Rule 2010, by making an unsuitable recommendation to that customer. Additionally, Mr. McGee respectfully takes exception to, and appeals from, so much of the Decision of the NAC and Hearing Panel which ordered him to disgorge his commissions, pay restitution to the affected customer, and pay hearing costs. Further, Mr. McGee respectfully takes exception to, and appeals from, so much of the Decision of the NAC and Hearing Panel that found he violated FINRA Rules 3270 and 2010 by failing to disclose his outside business activities; that he willfully violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010 by failing to timely update his Form U4; and, that he violated FINRA Rule 2010 and NASD Rule 2110 by providing false information to his member firm.

(9) Brief statement of the bases for appeal:

FINRA has no jurisdiction over this matter where Mr. McGee's commission was from the sale of an insurance product and involved a gift to charity, Mr. McGee's commission was not from the sale

of a security. Mr. McGee had no obligation under applicable law to disclose his commission from the sale of an insurance product. Further, the testimony and evidence does not support by a preponderance of the evidence the findings by the NAC and Hearing Panel. Mr. McGee did not engage in the conduct found by the NAC and Hearing Panel; Mr. McGee's conduct did not violate FINRA rules; and, FINRA rules were not applied in a manner consistent with the purposes of the Securities Exchange Act of 1934. Moreover, the sanctions imposed by the NAC and Hearing Panel, giving due regard to the public interest and the protection of investors, are excessive and oppressive and/or impose an unnecessary or inappropriate burden on competition.

Dated: August 17, 2016

Respectfully Yours,



Kevin R. Van Duser, Esq.
SUGARMAN LAW FIRM, LLP
Attorneys for Respondent Bernard G. McGee
Office and Post Office Address
211 West Jefferson Street, Suite 20
Syracuse, New York 13202
Telephone: (315) 474-2943

TO:

The Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Mail Stop 1090 - Room 10915
Washington, DC 20549

Jante C. Turner
FINRA
Office of General Counsel
1735 K Street, NW
Washington, DC 20006

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

In the Matter of the Application of:

BERNARD G. MCGEE

CERTIFICATE OF SERVICE

For Review of Action Taken by:

**Disciplinary Proceeding
No.: 2012034389202**

NATIONAL ADJUDICATORY COUNCIL

and

FINANCIAL INDUSTRY REGULATORY AUTHORITY

I hereby certify that on August 17, 2016, I caused a copy of the foregoing Notice of Appeal and Notice of Appearance to be sent by fax and overnight mail to following at the fax numbers and addresses below:

Jante C. Turner
FINRA Department of Enforcement
15200 Omega Drive
Rockville, MD 20850
Fax No.: 202-728-8264

Securities and Exchange Commission
Office of the Secretary
100 F Street NE
Washington, DC 20549
Mail Stop 1090
Attn: Secretary of the Commission, Brent J. Fields
Fax No.: 202-772-9324

Dated: August 17, 2016



Kevin R. Van Duser, Esq.
SUGARMAN LAW FIRM, LLP
Attorneys for Bernard G. McGee
Office and Post Office Address
211 West Jefferson Street
Syracuse, New York 13202
Telephone: (315) 474-2943